

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. CR07-0343JLR

**Plaintiff,**

V.

NIVALDO RIASCOS,

## ORDER

Defendant.

Before the court is *pro se* Defendant Nivaldo Riascos's motion for a reduction of sentence pursuant to Amendment 821 of the United States Sentencing Guidelines. (Mot. # 558.) Plaintiff the United States of America (the "Government") opposes Mr. Riascos's motion. (Resp. (Dkt. # 560).) Having considered the parties' briefs, the relevant portions of the record, and the applicable law, the court DENIES Mr. Riascos's motion.

“As a general matter, courts may not alter a term of imprisonment once it has been imposed.” *United States v. Hicks*, 472 F.3d 1167, 1169 (9th Cir. 2007). 18 U.S.C.

1    § 3582(c)(2), however, “allows modification of a term of imprisonment when: (1) the  
2    sentence is based on a sentencing range that has subsequently been lowered by the  
3    Sentencing Commission; and (2) such reduction is consistent with applicable policy  
4    statements issued by the Sentencing Commission.” *United States v. Waters*, 771 F.3d  
5    679, 680 (9th Cir. 2014); *see* 18 U.S.C. § 3582(c)(2). District courts lack jurisdiction to  
6    modify a sentence under section 3582(c)(2) unless both criteria are met. *See United*  
7    *States v. Wesson*, 583 F.3d 728, 732 (9th Cir. 2009).

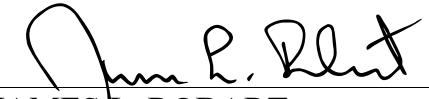
8        Here, the court lacks jurisdiction to modify Mr. Riascos’s sentence because his  
9    sentencing range has not changed. At sentencing, the court agreed with the Government  
10   and the Probation Office that Mr. Riascos had a total offense level of 41 and a criminal  
11   history category of III, producing a guideline range of 360 months to life. (*See*  
12   Sentencing Tr. (Dkt. # 462) at 9-10, 22.) The court sentenced Mr. Riascos to 408 months  
13   of imprisonment. (Judgment (Dkt. # 438).) Under the newly amended version of the  
14   Sentencing Guidelines, Mr. Riascos has two fewer criminal history points, reducing his  
15   criminal history category from III to II. *See* USSG § 4A1.1(e). Nevertheless, this  
16   reduction in criminal history category does not affect Mr. Riascos’s sentencing range  
17   because the range for level 41 at category II is also 360 to life. *See* USSG Ch. 5, Part A  
18   (Sentencing Table). Because Mr. Riascos’s sentencing range has not been lowered by  
19   application of the retroactive guidelines amendment, he fails to meet the eligibility  
20   mandate imposed by 18 U.S.C. § 3582(c)(2).

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1 For the foregoing reasons, the court DENIES Mr. Riascos's motion for a reduction  
2 of sentence (Dkt. # 558).

3 Dated this 1st day of October, 2024.

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5 JAMES L. ROBART  
6 United States District Judge  
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